



# SENATOR RUNNER'S WEEK IN REVIEW

A WEEKLY REVIEW THAT WILL KEEP YOU INFORMED AND UP-TO-DATE



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## Parental Notification

Several challenges to laws and rulings regarding parental notification of a minor child's intent to have an abortion are underway in California, in Congress, and in the courts. The California Parent's Right to Know initiative has qualified for ballot after failing to qualify on three previous attempts. Congress has introduced bills requiring parental notification for abortion involving minors. In a surprise move this week, the U.S. Supreme Court agreed to review a New Hampshire Federal Appeals Court case that challenges access to abortion. These are all positive attempts to require that parents be informed of their minor daughters' intent to have an abortion.

### News of the Week

[High Speed Chase Bill Passes Senate](#)

[Governor's GoCalifornia Stalled ... For Now](#)

[Gay Marriage Bill Killed in Assembly](#)

[Government-Run Health Care Passes  
Amid Republican Objections](#)

[Strict Informed Consent Measure  
for Women who Donate Passes Senate](#)

[Computer Training at Grace Resource Center](#)

[Saluting Veterans in Santa Clarita](#)

[Parental Consent for Body Piercing Advances](#)

## Parent's Right to Know Initiative

The initiative amends the California Constitution by barring abortion for an un-emancipated minor until 48 hours after a physician notifies the minor's parent or legal guardian, except in a medical emergency or with a parental waiver. An un-emancipated minor is defined as a female under the age of 18 years who is not married, or is not on active military duty. If a pregnant minor wishes to file a petition to avoid notifying a parent, the court must assist the minor in preparing the petition. A judicial waiver of notice is permitted based on clear and convincing evidence of a minor's maturity or if it is determined to be in the minor's best interest.

The initiative requires physicians to report abortions performed on minors to the Department of Health Services (DHS) and requires DHS to compile the statistics for an annual report. The Legislative Analyst and the Director of Finance state that the costs of this act are unknown, but probably insignificant in the context of total expenditures for these programs.

Initiatives that amend the California State Constitution require signatures equal to 8% of the Governor's total vote in the preceding gubernatorial election. This initiative required 598,105 valid signatures to qualify. Before the deadline, more than a million signatures were submitted and the initiative qualified in May of 2005. If Governor Schwarzenegger calls a special election for fall 2005, the initiative will be on that ballot. Otherwise, it will appear on the primary election ballot in June 2006. If approved by the voters, the initiative takes effect 90 days after the election.

## **Prior State Legislation/Court Rulings**

1953 - Legislation passed a law that allowed minors to receive, without parental consent or notice, the same range of pregnancy services that are available to an adult. This law eventually became the vehicle through which minors obtained abortions without parent consent or notice.

1987 - The 1953 statute was reversed by new legislation requiring minors to obtain parental consent or court authorization prior to obtaining an abortion. Implementation was enjoined by the courts and in 1997 the California Supreme Court invalidated the law by finding that it violates the right to privacy guaranteed by the California Constitution. Consequently, after being litigated for 10 years, minors in the state continue to receive abortion services, including those provided by Medi-Cal, without parental consent or notification to the same extent that adults may receive such services.

## **Other States' Policies**

Thirty-three states require some parental involvement in a minor's decision to have an abortion. Many states' parental involvement requirements include a medical emergency exception and a judicial bypass procedure, as in the current California initiative. Six states allow grandparents or other adult relatives to be involved in place of the minors' parents. In cases of neglect or abuse, twelve states waive the consent or notification requirement altogether. State court decisions have contributed to the diversity in state requirements: Ten states, in addition to California, have overturned parental notification laws that the courts concluded violate their states' constitutions while similar or even more restrictive laws remain in effect in other states.

## **Current Federal Legislation**

In April 2005, the House of Representatives passed H.R. 748/Ros-Lehtinen by a vote of 270-157. The bill makes it illegal to dodge parental consent laws by taking minors across state lines for abortions. (California delegation votes: 19 Republicans and 3 Democrats "AYE" and 30 Democrats "NO.") The bill imposes a federal parental notification and mandatory delay for any young woman seeking an abortion outside her state of residence. The bill imposes fines, jail time, or both on adults and doctors involved in taking a minor out of state to receive an abortion. The Bush Administration states that it strongly supports H.R. 748 and that the bill is consistent with their view that parents should be involved when medical procedures are performed on their children.

This is the third time since 1998 that the House has approved such measures. Democratic opponents recently blocked a similar bill (S.403/Ensign) in the Senate. Senate Majority Leader Frist listed S.403 among the "top ten" priorities. Frist has pledged to bring the bill up for a vote this summer.

## **Recent Court Challenges**

In November 2004, a federal appeals court struck down a 2003 New Hampshire law that requires parental notification before minors can terminate their pregnancies. The law was ruled unconstitutional for failing to provide an exception to protect the minor's health in the event of a medical emergency. New Hampshire appealed the ruling and asked justices to clarify the legal standard that is applied when reviewing the constitutionality of abortion laws.

In May 2005, the U.S. Supreme Court agreed to review this case. This comes at a time of partisan fighting in the Senate over President Bush's nominees for federal judgeships and concerns about

future appointments. Liberal groups have vowed to fight any replacement who opposes the High Court's 1973 decision legalizing abortion.

## Conclusion

A 2002 poll showed that 71% of Californians favor parental notification when their daughters seek an abortion. A 2001 poll showed 81 percent nationwide favor parental notification. In spite of overwhelming public support for parental inclusion, the California Legislature and the courts have blocked implementation of the parental consent law that remains on the books.

Based on studies of other states with parental involvement laws, the Legislative Analyst estimates abortions on minors in California could be reduced by 25% if the initiative is implemented. Lifenews.com reports that parental consent laws have reduced teen abortions by as much as 30 percent in other states.

The authors of the initiative have made every effort to draft this initiative in such a way that it will be challenge-proof. Since the initiative amends the constitution, it is not subject to California Supreme Court review. While federal courts have jurisdiction over the amendment, the U.S. Supreme Court has ruled that parental notification is constitutional as long as teens don't have to tell their parents in abuse situations. Supporters of the initiative believe there will be 20,000 fewer abortions each year in California when the Parents' Right to Know is implemented.

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